



Conservation Law Foundation

December 29, 2005

BY HAND & EMAIL

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: NSTAR Electric / NSTAR Gas D.T.E. 05-85

Dear Ms. Cottrell:

As I discussed on the telephone today with John Cope-Flanagan of the Department staff I am unable to attend the public hearing on this proposed settlement this evening and ask, as per that conversation, that the following brief remarks be entered into the record of that Hearing. I appreciate the help and courtesy of the Department staff in this, as in all matters.

COMMENTS OF THE CONSERVATION LAW FOUNDATION

First, I reiterate CLF's concerns (as a long standing stakeholder in these matters) about the impact that Paragraph 2.21 of the Agreement may and will have on the prospects for long term contracts needed to finance the construction of renewable energy projects. As discussed in our prior letter these concerns have been the subject of considerable discussion before the Department and remain unresolved – crippling the ability of the Commonwealth to meet its goals of fostering sustainable and locally generated energy. At best the Settlement before the Department delays, yet again, resolution of this issue (as well as many other important questions) indefinitely continuing an unfortunate pattern of delay and missed opportunities to put in place an effective energy regulatory program that furthers the Commonwealth's energy policy goals articulated in documents like the Governor's Climate Protection Plan.

Secondly, I note the validity and importance of the comments of ISO-NE. While we do not agree with the entirety of those comments they raise a legitimate concern about the dubious decision to create an ad-hoc contingent fee mechanism that effectively vests ability to recover ratepayer funds for advocacy at FERC an in related forums solely in an investor owned for-profit electricity distribution company. Obviously, we believe that broad stakeholder participation at NEPOOL, FERC and before the Department is important and that recovery of reasonable fees and expenses by participants who fundamentally shape the outcome of these proceedings in helpful ways that advance the public interest are a good idea but that is not the kind of mechanism we face here – it is perpetuation of one of the worst aspects of our energy regulatory system, the taxation of ratepayers to support the advocacy and legal expenses of the corporations who are already skilled and well-financed players in that system.

62 Summer Street, Boston, Massachusetts 02110-1016 • Phone: 617-350-0990 • Fax: 617-350-4030 • www.clf.org

MAINE: 120 Tillson Avenue, Suite 202, Rockland, Maine 04841-3416 • 207-594-8107 • Fax: 207-596-7706

NEW HAMPSHIRE: 27 North Main Street, Concord, New Hampshire 03301-4930 • 603-225-3060 • Fax: 603-225-3059

RHODE ISLAND: 55 Dorrance Street, Providence, Rhode Island 02903-2221 • 401-351-1102 • Fax: 401-351-1130

VERMONT: 15 East State Street, Suite 4, Montpelier, Vermont 05602-3010 • 802-223-5992 • Fax: 802-223-0060

Conservation Law Foundation

Finally, further reflection on the proposed settlement during the brief period we have had it before us has raised one additional and important point – the interaction between this settlement and the implementation of Section 1E of Chapter 164 as enacted by Chapter 164 of the Acts of 1997. That statutory provision authorized and directed the Department to shift the compensation of electricity transmission and distribution companies to a system of Performance Based Rates (PBR) and away from traditional compensation solely on the basis of kilowatts moved through their system. Moving to a PBR model provides immediate benefits to ratepayers in the form of clear correspondence between service quality and distribution company compensation but also lays the groundwork for great benefit in the form of enhanced energy efficiency and demand side management as the distribution companies revenues are no longer directly tied to delivery of the “electricity product”. By enacting this provision in 1997 the Legislature authorized and directed the Department to take an important step towards the “de-coupling” which is the subject of so much discussion nationally and in the community of regulators and other energy system stakeholders. By once again modifying and adjusting the rates of the NSTAR Electric companies without addressing this fundamental statutory mandate, which NSTAR has successfully evaded for over eight years, this settlement perpetuates a longstanding problem.

In short, given these unresolved substantive issues, the concerns raised by many other parties and the rushed and chaotic procedural context in which the Department finds itself in it would be impossible to conclude that this settlement is in the public interest and should be approved.

Given an appropriate context and forum CLF will be happy to fully participate in the issues that are at stake here and we look forward to the opportunity to do so.

Sincerely yours,

/s/

Seth Kaplan

cc: Service List